IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.2632 OF 2004
IN
WRIT PETITION NO.6581 OF 2004

The State of Maharashtra & ors. Petitioners

versus

Momin Azhar Iqbal Ahmed & ors. Respondents

R.D.Rane, Addl.G.P. for petitioners.

A.R.Shaikh, adv. for respondent no.1.

V.Z.Kankari, adv. for R.2 and 3.

CORAM : A.P.SHAH AND
S.C.DHARMADHIKARI, J.

DATE : 9th December 2004

PC :

1. Heard advocates.

2. The Division Bench by judgement and order dated 1st October 2004 issued following directions :-

> "In the above circumstances, we are not inclined to accept the prayer of the Petitioner for grant of approval to his appointment from the date of his appointment. However, we are informed that there is further development and the

> State has now lifted the ban which was imposed earlier by permitting recruitment to the extent of 50%. In view of this position, we direct the State Government to consider Petitioner's case afresh and grant approval to his appointment with effect from the Government Resolution, dated 18th August, 2004, lifting the ban to the extent of 50% and release the salary of the Petitioner from the said date. It appears that the Petitioner has not been paid salary since July 2000. This position is not disputed by the Management. We, therefore, direct the management of the school to pay the salary of the Petitioner from July 2000 till 18th August, 2004, in three equal quarterly instalments commencing from 1st January, 2005."

3. Learned Additional Government Pleader Mr.Rane submitted that though by G.R. dated 30th July 2004 the State Government had lifted the ban thereby permitting recruitment for open category posts of Non Teaching Staff to the extent of 50%, the State Government by a further GR dated 18th August 2004 has cancelled the permission given under GR dated 30th July 2004. Thus, GR dated 30th July 2004 stands superseded by the subsequent GR.. Mr.Rane is praying that the order dated 1st October 2004 be modified suitably in the light of GR dated 18th August 2004.

4. The above directions issued vide order dated 1st October 2004 be substituted by following.

5. The State Government is directed to consider petitioners' case for approval afresh in the light of relevant GRs and pass appropriate order within a period of three months from today. The Management of school is directed to pay the arrears of salary of petitioner from 30th July 2000 till date in three quarterly equal instalments commencing from 1st January 2005. It is needless to state that the Management shall be liable to pay the current salary of the petitioner as per the prescribed rate.

6. Petition is disposed of accordingly with no order as to costs.

(A.P.SHAH, J.)

(S.C.DHARMADHIKARI, J.)